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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,560	06/26/2001	Beung Jae Yang	K-290	9416

7590 11/25/2002  
FLESHNER & KIM, LLP  
P.O. Box 221200  
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EXAMINER

BERCK, KENNETH A

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/888,560

Applicant(s)

YANG, BEUNG JAE

Examiner

Ken A Berck

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2879

## DETAILED ACTION

### *Drawings*

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "7" and "14" have both been used to designate the main frame. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 05325815.

815' discloses (fig 3) a color cathode ray tube including a tension mask assembly with a tension mask, a main and sub frame, a magnetic shield structure in a funnel with a main unit and a front unit where the tension mask assembly is inserted.

Regarding claim 2, 815' discloses the front unit has a hole to insert the tension mask assembly and both end portions of the front unit have side walls.

Regarding claim 3, 815' discloses (fig 5) an internally-protruded inside wall and an outside wall forming an outer wall separated from the inside wall by a top surface having a predetermined thickness.

Art Unit: 2879

Regarding claim 4, 815' discloses the main unit has an electron beam passing hole and is formed in a barrel shape corresponding to the inside shape of the funnel.

Regarding claim 6, 815' discloses the main and front unit are welded.

Regarding claim 7, 815' discloses the front unit consists of a metal of high permeability.

Regarding claim 8, 815' discloses the end portion of the front unit is positioned on a spatial range between the half height of the main frame and the inner surface of the panel.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 05325815.

Regarding claims 5-6, applicant is claiming process step therein and therefore are of product-by-process nature. The courts have been holding for quite some time that: "--In spite of the fact that a product-by-process claim may recite only process limitations, it is the product which is covered by the claim and not the recited process steps--". (In re Hughes, 182 USPQ 106)--". Also --Patentability of a claim to a product does not rest merely on a difference in the method by which that product is made. Rather, it is the product itself which must be new and unobvious. (In re Pilkington, 162

Art Unit: 2879

USPQ 147)--." Accordingly, "--a rejection based on 35 U.S.C. section 102 or alternatively on 35 U.S.C. section 103 of the statute is eminently fair and acceptable." (In re Brown and Saffer, 173 USPQ 685 and 688). --The determination of the patentability of product-by-process claim is based on the product itself rather than on the process by which the product is made--. In re Thrope, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). As such, no patentable weight is given to process steps recited in claims 5-6.

Art Unit: 2879

### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken A Berck whose telephone number is (703)305-7984. The examiner can normally be reached on Mon-Fri 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703)305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7382 for regular communications and (703)308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

kab   
November 21, 2002

  
Vip Patel  
Primary Examiner  
Art Unit 2879